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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/457,209	12/08/1999	BRADLEY CAIN	2204/186	7418

7590 03/28/2003
Steubing McGuinness & Manaras LLP
30 Nagog Park Drive
Acton, MA 01720

EXAMINER

ZIA, SYED

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/457,209

Applicant(s)

CAIN, BRADLEY

Examiner

Syed Zia

Art Unit

2155

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: -None-.

Claim(s) objected to: -None-.

Claim(s) rejected: 1-24.

Claim(s) withdrawn from consideration: -None-.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Attachment to Advisory Action

1. This office action is in response to the after-final amendment filed on March 17, 2003.

Applicant amended Claims 1-5, and 8-23, and added two new Claims 25, and 26.

Applicant's request for consideration has been fully considered but they are not persuasive because of the following reasons:

Applicant amended independent, and dependent claims. These amendments require further consideration because either scope of the claims has been changed when interpreting existing claim limitation in conjunction with amended limitation, or amendment does not place the application in condition for allowance, some examples are,

Claim 1 line 3 "periodically calculatingwith a neighbor;

Claim 1 line 4 "varying a frequencyreliability factor;

Claim 2 line 2 "calculating the reliability..... for the neighbor;

Claim 3 line 3 "measuring the reliability..... for the neighbor;

Claim 8 line 3 "reliability calculation logic periodically calculate with a neighbor;

Claim 8 line 5 "frequency variation logic reliability calculation logiccalculate a frequency reliability factor";

Claim 25 "The method of claim 4 $RF=(W1*A + W2*B)$.


Claim 26 "The device of claim 11 $RF=(W1*A + W2*B)$.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Zia whose telephone number is 703-305-3881. The examiner can normally be reached on Monday - Friday 9:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 703-305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-746-7240.

SZ
March 26, 2003


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100